

Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed June 4, 2003, in the above-identified patent application. Claims 1-33 are pending in the application. Claims 20-25 were withdrawn from consideration. Claims 2-4, 9-10, 13-15 stand rejected under 35 U.S.C. §112. Claims 1-19 and 26-33 stand rejected under 35 U.S.C. §103(a). The present Response amends claims 1-6, 8-11, 13, 14, 16, 18, 26, 28, 30, 32 and 33, leaving for the Examiner's present consideration Claims 1-19 and 26-33. Reconsideration of the rejections is requested.

I. OBJECTION TO DISCLOSURE

Page 6, lines 9 and 10

The Examiner objected to the disclosure because of the following informalities: page 6, lines 9 and 10 include misspelled words "am". The disclosure has been corrected and the application is believed to be in compliance.

The Examiner also noted the use of the trademark Foodsaver® in the subject application, which is a vacuum packaging system by Tilia®. Applicants appreciate the Examiner's remarks regarding the use of trademarks in patent applications and have verified that in the single occurrence the Foodsaver® trademark was used in the application, it was capitalized and accompanied by the generic terminology.

II. OBJECTION TO DRAWING

Figure 5

The Examiner has objected to the drawings because reference numeral "138" in Figure 5 is used for two different elements. Figure 5 has now been amended and is believed to be in compliance.

III. REJECTION UNDER 35 U.S.C. §112

Claims 2-4, 9, 10 and 13-15

The Examiner rejected Claims 2-4, 9-10, 13-15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejection.

In the Office Action, the Examiner states that in claims 2, 9, and 13, the terms "small" and "large" are relative terms which render the claims indefinite. Applicants believe that the claims are definite because the width of each roll is defined relative to a roller, as well as relative to one another. Claim 2 recites a first roller that "**can selectively accommodate a small roll or a large roll...wherein the small roll has a width narrower than that of the large roll**" (Emphasis added). Similarly, Claim 9 recites two rollers, each "**accommodating a large roll or a small roll...wherein the small roll has a width narrower than that of the large roll**" (Emphasis added). Similarly, Claim 13 recites two rollers, "**each roller adapted to selectively store a small or large roll...wherein the small roll has a width narrower than that of the large roll**" (Emphasis added). The large roll and small roll can each have a width such that they can be accommodated by a roller, thus the upper bound of the width of the large roll and lower bound of the width of the small roll are defined by a size of the roller. The small roll has a width narrower than that of the large roll, thus the width of each roll is also defined relative to the other roll.

Further, the Examiner states that in Claims 3, 9 and 14, the expression "a small roll" appears to be a double inclusion of the small roll set forth in Claim 2. Claim 3 and 14 recite "when *the* small roll is connected with the first (or second) roller" (Emphasis added). Claim 2 provides the antecedent basis for "the small roll" as recited in Claim 3 and Claim 13 provides the antecedent basis for "the small roll" as recited in Claim 14. "The small roll" referred to in Claims 3 and 14 is intended to refer to "a small roll" of Claim 2 and 13 respectively, and is not intended to be a double inclusion. Claim 9 depends from Claim 8, and in no way

depends from or needs to find antecedent basis in Claim 2. "A small roll" as recited in claim 9 does not find antecedent basis in Claim 8, therefore there can be no double inclusion.

Further still, the Examiner argues that there is no antecedent basis for "the center," and that the expression "the roller" is confusing in that it is not clear which roller is being referred to. Claims 3 and 10 have been amended to provide antecedent basis for all element of the claim, and to more clearly define the invention. Applicants also point out that "the roller" refers to either "a first or second roller." Accordingly, Applicant respectfully requests the withdrawal of this objection.

IV. REJECTION UNDER 35 U.S.C. §103(A) OVER LABRECQUE (U.S. PAT. 5,044,241) IN VIEW OF ROSS (U.S. PAT. 5,103,710)

Claims 1-19 and 26-33

The Examiner rejected Claims 1-19 and 26-33 under 35 U.S.C. § 103(a) as being unpatentable over *Labrecque* in view *Ross*. Applicants respectfully traverse the rejection.

In the Office Action, the Examiner argues that *Labrecque* discloses the same invention as claimed including "a platform (the flat portion extending below 16 and outwardly from 34, as shown in Figure 1 wherein the film rest while being cut)... a base (16) having an inlet and an outlet." Nowhere does *Labrecque* teach or suggest a device "wherein the (vacuum) bag sealing apparatus is supported on the platform between said storage unit and said (slidable) cutting mechanism" as recited in Claims 1, 8, 11, 16 and 30 (Emphasis added). Likewise, nowhere does *Labrecque* teach or suggest a device "wherein a bag sealing apparatus can be supported on the platform between said storage unit and said slidtable cutting mechanism" as recited in Claims 26 and 28 (Emphasis added). Likewise, nowhere does *Labrecque* teach or suggest a device with a "platform for supporting vacuum bag sealing apparatus above the base" as recited in Claim 13 or a device "wherein the bag sealing apparatus is supported above the base" as recited in Claims 32 and 33 (Emphasis

added). Finally, nowhere does *Labrecque* teach or suggest a device “wherein a portion of the platform that supports the vacuum bag sealing apparatus has a width at least twice as large as a width of a portion of the platform that supports the storage unit” as recited in Claim 18.

As can be seen in Figure 1, and as pointed out by the Examiner, *Labrecque* teaches a device having a storage unit **12** and a cutting mechanism **22**/base portion **16**. *Labrecque* fails to disclose any platform at all. However, even if a platform can be construed as extending *below* **16** and outwardly of **34**, such a platform could not support a commercially existing vacuum bag sealing apparatus. Even if a commercially existing vacuum bag sealing apparatus could be supported on such a platform, the vacuum bag sealing apparatus would not be supported between the storage unit and the cutting mechanism, as recited in claims 1, 8, 11, 16, 26, 28 and 30. Rather, *Labrecque* shows a cutting mechanism *above* the platform. Further, such a vacuum bag sealing apparatus would not be supported *above* the base **16** as recited in claims 13, 32 and 33, but rather below the base **16**. Further still, the platform identified in *Labrecque* does not have a portion that supports a vacuum bag sealing apparatus having a width at least twice as large as a width of a portion of the platform that supports the storage unit **12**, as recited in claim 18. *Ross* fails to remedy these deficiencies. Figure 13 of *Ross* teaches multiple support pins and a cutting mechanism positioned over a base. Nowhere does *Ross* teach or suggest a platform of any kind.

Labrecque alone or in combination with *Ross* fails to teach or suggest all of the limitations of Claims 1, 8, 11, 13, 16, 18, 26, 28, 30, 32 and 33 and therefore cannot render those claims obvious under 35 U.S.C. §103(a). Claims 2-7 ultimately depend from Claim 1, Claims 9 and 10 ultimately depend from Claim 8, Claims 14 and 15 ultimately depend from Claim 13, and Claims 12, 17, 19, 27, 29 and 31 depend from Claims 11, 16, 18, 26, 28 and 30 respectively and are therefore patentable for at least the reasons given for the patentability

of Claims 1, 8, 11, 13, 16, 18, 26, 28 and 30. Accordingly, Applicant respectfully requests that the rejection of Claims 1-19 and 26-33 under 35 U.S.C. §103(a) be withdrawn.

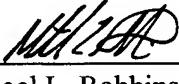
V. CONCLUSIONS

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: 9/1/03

By: MLR 
Michael L. Robbins
Reg. No. 54,774

FLIESLER DUBB MEYER & LOVEJOY LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800